

UNITED STATES BANKRUPTCY COURT

Entered on Docket
February 07, 2014

DISTRICT OF NEVADA

In re

HORIZON RIDGE MEDICAL &
CORPORATE CENTER, L.L.C.,

Debtor.

Case No.: BK-S-12-13906 BTB
Chapter 11

**MEMORANDUM CONCERNING LENDER'S
SECOND MOTION TO SUPPLEMENT ITS CLAIM**

This is a contested matter in bankruptcy (Rule 9014, Fed. R. Bankr. P.) in which an undersecured creditor with both secured and unsecured claims seeks to supplement its unsecured claim, for the period from August 1, 2013 through November 31, 2013. The motion seeks to increase the unsecured claim by \$279,752.01, of which \$248,212.44 is for attorneys' fees and expenses (Dkt. #365, p. 3, l. 16-21). The motion is opposed by the chapter 11 debtor.

Horizon Ridge Medical & Corporate Center, LLC, ("Debtor") filed a petition for reorganization under Chapter 11 of the Bankruptcy Code on April 2, 2012. Debtor's main asset is a medical office building. An order entered on February 22, 2013, held that, "(T)he fair market value of the Debtor's Real Property, for purposes of plan confirmation is \$3,975,000." (Dkt. #223, p. 2, l. 14-15).

The creditor holding the secured and unsecured claims is Bank of America, N.A., successor by merger to LaSalle Bank National Association, as trustee for the registered holders of GMAC Commercial Mortgage Securities, Inc., Commercial Mortgage Pass-Through Certificates, Series 2003-C1, acting by and through CWCAPITAL Asset Management LLC, Special Servicer (“Lender”).

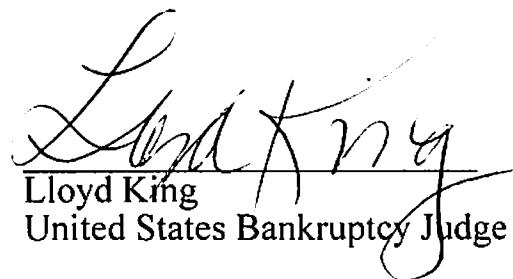
The motion was heard on February 6, 2014. John Robert Weiss, Esq., Duane Morris LLP, appeared for Lender, in support of the motion. Talitha Gray Kozlowski, Esq., Gordon Silver, appeared for Debtor, in opposition to the motion.

By order entered October 22, 2013, this court held that “Lender’s Claim totals \$4,344,314.52 and consists of (a) a secured claim in the amount of \$3,975,000 and (b) an unsecured claim in the amount of \$369,314.52 subject to the allocation or application, if any, of the adequate protection payments tendered by Debtor to Lender.” (Dkt. #313, p.4, l.24 - p.5, l. 1). That order is the subject of an appeal now pending before the United States Bankruptcy Appellate Panel for the Ninth Circuit. (B.A.P. No. NV-13-1533). Debtor is the Appellant. Lender is the Appellee.

One of the primary issues before the B.A.P. is the reasonableness of Lender’s requested attorneys’ fees. That issue is also before this court in the motion now under consideration. The B.A.P.’s ruling on Lender’s attorneys’ fees will guide this court in its ruling on the fee’s requested in the subject motion. Therefore, the subject motion will be held under consideration until the B.A.P. has ruled on B.A.P. Appeal No. NV-13-1533.

This determination is without prejudice to the ability of either Debtor or Lender to ask this court to issue its ruling, in advance of the B.A.P. ruling.

Dated: February 7, 2014.



Lloyd King
United States Bankruptcy Judge